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May 22, 2014

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Jon L. Bennett, Owner
Wade Riddering, Regulatory Compliance
Filter Recycling Services Inc.
180 W Monte Ave.
Bloomington, CA 92316

Jon L. Bennett, Owner
Wade Riddering, Regulatory Compliance
Filter Recycling Services Inc.
2230 Riverside Av.
Bloomington, CA 92316

Jon L. Bennett, Agent for Service of Process
Wade Riddering, Regulatory Compliance
Filter Recycling Services Inc.
PO BOX 449
Colton, CA 92324

**RE: Notice Of Violations And Intent To File Suit Under The Federal Water
Pollution Control Act Concerning Filter Recycling Services Inc., 180 W
Monte Ave., Bloomington, California, WDID No. 8 36I012307**

Dear Mr. Bennett and Mr. Riddering,

The Law Office of Gideon Kracov on behalf of the Center for Community Action and Environmental Justice (hereinafter "CCA EJ") is contacting you concerning Clean Water Act (hereinafter "CWA" or "Act") violations at Filter Recycling Services Inc. facility at 180 W Monte Ave., Bloomington, California (hereinafter "**Facility**"). This letter is being sent to you, Jon L. Bennett and Wade Riddering, as the responsible owners, officers, or operators of the Facility (collectively hereinafter "**Filter Recycling Services**").

CCA EJ is a non-profit public benefit corporation dedicated to working with communities to advocate for environmental justice and pollution prevention. CCA EJ has members living in

the community adjacent to the Facility and the Santa Ana River Watershed. CCAEJ and its members are deeply concerned with protecting the environment in and around their communities, including the Santa Ana River Watershed.

This letter addresses Filter Recycling Services' unlawful discharge of pollutants from the Facility through the municipal storm sewer system and into the Santa Ana River. The Facility is discharging storm water pursuant to National Pollutant Discharge Elimination System (hereinafter "NPDES") Permit No. CA S000001, California State Water Resources Control Board (hereinafter "State Board") Order No. 92-12-DWQ as amended by Order No. 97-03-DWQ (hereinafter "General Permit").¹ The WDID identification number for the Facility listed on documents submitted to the California Regional Water Quality Control Board, Santa Ana Region ("Regional Board") is 8 36I012307. The Facility is engaged in ongoing violations of the substantive and procedural requirements of the General Permit.

Section 505(b) of the CWA requires a citizen to give notice of intent to file suit sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Act (33 U.S.C. § 1365(a)). Notice must be given to the alleged violator, the U.S. Environmental Protection Agency (hereinafter "EPA"), and the State in which the violations occur.

As required by the Act, this Notice of Violation and Intent to File Suit provides notice of the violations that have occurred, and continue to occur, at the Facility. Consequently, Filter Recycling Services is hereby placed on formal notice by CCAEJ that, after the expiration of sixty days from the date of this Notice of Violations and Intent to Sue, CCAEJ intends to file suit in federal court against Filter Recycling Services under Section 505(a) of the Clean Water Act (33 U.S.C. § 1365(a)), for violations of the CWA and General Permit. These violations are described more extensively below.

I. BACKGROUND.

Filter Recycling Services filed a Notice of Intent to Comply With the Terms of the General Permit to Discharge Storm Water Associated with Industrial Activity (hereinafter "NOI") and that NOI can be viewed on the State of California's State Water Resources Control Board website. In its NOI, Filter Recycling Services has certified that the Facility is classified under SIC Code 4953 (hazardous waste, treatment, and storage). Filter Recycling Services tracks, packages, transports, and disposes of hazardous waste. Additionally, Filter Recycling

¹ On April 1, 2014, the State Board reissued the General Permit, continuing its mandate that industrial facilities implement the best available technology economically achievable ("BAT") and best conventional pollutant control technology ("BCT") and, in addition, establishing numeric action levels mandating additional pollution control efforts. State Board Order 2014-0057-DWQ. The new permit, however, does not go into effect until July 1, 2015. Until that time, the current General Permit remains in full force and effect.

collects, transports and disposes of waste oil, oil filters, oily water and antifreeze. On information and belief, CCAEJ alleges that the Facility collects and discharges storm water from its industrial site into two or more storm drain outfalls located at the Facility. CCAEJ is informed and believes that all storm water discharged from the site is associated with industrial activity or, alternatively, includes commingled storm water from both industrial and non-industrial activity. The outfalls discharge into the San Bernardino County's municipal storm sewer system, which flows into the Santa Ana River.

The Regional Board has identified beneficial uses of the Santa Ana River Watershed and established water quality standards for the river and its tributaries in "The Water Quality Control Plan (Basin Plan) for the Santa Ana River Basin" (hereinafter "**Basin Plan**"). See California Regional Water Quality Control Board, Santa Ana Region, The Water Quality Control Plan (Basin Plan) for the Santa Ana River Basin (2011), available at http://www.swrcb.ca.gov/rwqcb8/water_issues/programs/basin_plan/index.shtml.

The beneficial uses of these waters include, among others, municipal and domestic supply, agricultural supply, groundwater recharge, water contact recreation, non-contact water recreation, warm freshwater habitat, cold freshwater habitat, and wildlife habitat. The non-contact water recreation use is defined as "[u]ses of water for recreational activities involving proximity to water, but not normally involving contact with water where water ingestion is reasonably possible." *Id.* at 3-3. These uses include, but are not limited to, picnicking, sunbathing, hiking, beachcombing, camping, boating, tidepool and marine life study, hunting, sightseeing, or aesthetic enjoyment in conjunction with the above activities." *Id.* Contact recreation use includes fishing and wading. *Id.* at 3-2. Visible pollution, including visible sheens and cloudy or muddy water from industrial areas, impairs people's use of the Santa Ana River for contact and non-contact water recreation.

The Basin Plan includes a narrative toxicity standard which states that "[t]oxic substances shall not be discharged at levels that will bioaccumulate in aquatic resources to levels which are harmful to human health." *Id.* at 4-18. The Basin Plan includes a narrative oil and grease standard which states that "[w]aste discharges shall not result in deposition of oil, grease, wax, or other material in concentrations which result in a visible film or in coating objects in the water, or which cause a nuisance or adversely affect beneficial uses." *Id.* at 4-15. The Basin Plan includes a narrative suspended and settleable solids standard which states that "waters shall not contain suspended or settleable solids in amounts which cause a nuisance or adversely affect beneficial uses" *Id.* at 4-16. The Basin Plan includes a narrative floatables standard which states that "[w]aste discharges shall not contain floating materials, including solids, liquids, foam or scum, which cause a nuisance or adversely affect beneficial uses." *Id.* at 4-11. The Basin Plan includes a narrative color standard which states that "[w]aste discharges shall not result in coloration of the receiving waters which causes a nuisance or adversely affect beneficial uses."

Id. at 4-10. The Basin Plan includes a narrative turbidity standard which states that “inland surface waters . . . shall be free of changes in turbidity which adversely affect beneficial uses. *Id.* at 4-18.

Moreover, the Basin Plan sets out a number of numeric water quality standards. The Basin Plan includes Site Specific Objective standards (hereinafter “SSOs”) of 0.0017 mg/L for cadmium, 0.0182 mg/L for copper, and 0.0041 mg/L for lead.² *Id.* at 4-14. The Basin Plan includes a pH standard of 6.5 – 8.5 standard units (hereinafter “s.u.”). *Id.* at 4-15. The Basin Plan also includes a Nitrate standard of 10 mg/L. *Id.* at 4-14.

EPA has promulgated the California Toxics Rule (hereinafter “CTR”), establishing freshwater numeric water quality standards known as Criteria Maximum Concentration (hereinafter “CMC”) for Lead of 0.065 mg/L (CMC). 40 C.F.R. § 131.38.³

The EPA has published benchmark levels as guidelines for determining whether a facility discharging industrial storm water has implemented the requisite best available technology economically achievable (hereinafter “BAT”) and best conventional pollutant control technology (hereinafter “BCT”). The following benchmarks have been established for pollutants discharged by Filter Recycling Services: Total Suspended Solids (TSS) – 100 mg/L, Oil & Grease (O&G) – 15 mg/L, pH 6-9 s.u., Chemical Oxygen Demand (COD) – 120 mg/L, Total Organic Carbon (TOC) – 110 mg/L, Iron (Fe) 1.0 mg/L, Lead (Pb) – 0.262 mg/L, Ammonia (NH₃) – 2.14 mg/L, and Magnesium (Mg) – 0.0636 mg/L.⁴ U.S. Environmental Protection Agency, Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (2009) 52, 102.

II. ALLEGED VIOLATIONS OF THE NPDES PERMIT.

a. Discharges In Violation Of The Permit Not Subjected To BAT/BCT.

Filter Recycling Services has violated and continues to violate the terms and conditions of the General Permit. Section 402(p) of the Act prohibits the discharge of storm water associated with industrial activities, except as permitted under an NPDES permit (33 U.S.C. § 1342) such as the General Permit. The General Permit prohibits any discharges of storm water associated with industrial activities or authorized non-storm water discharges that have not been subjected to BAT or BCT. Effluent Limitation B(3) of the General Permit requires dischargers

² The values for cadmium, copper and lead are expressed as a function of total hardness (mg/L) in the water body and correspond to a total hardness of 200 mg/L as CaCO₃.

³ The values for Zinc are expressed as a function of total hardness (mg/L) in the water body and correspond to a total hardness of 100 mg/L as CaCO₃.

⁴ The value for Lead is expressed as a function of total hardness (mg/L) in the water body and correspond to a total hardness of 250+ mg/L as CaCO₃.

to reduce or prevent pollutants in their storm water discharges through implementation of BAT for toxic and nonconventional pollutants and BCT for conventional pollutants. BAT and BCT include both nonstructural and structural measures. General Permit, Section A(8). Conventional pollutants are Total Suspended Solids, Oil and Grease, pH, Biochemical Oxygen Demand, and Fecal Coliform. 40 C.F.R. § 401.16. All other pollutants are either toxic or nonconventional. *Id.* §§ 401.15, 401.16.

In addition, Discharge Prohibition A(1) of the General Permit prohibits the discharge of materials other than storm water (defined as non-storm water discharges) that discharge either directly or indirectly to waters of the United States. Discharge Prohibition A(2) of the General Permit prohibits storm water discharges and authorized non-storm water discharges that cause or threaten to cause pollution, contamination, or nuisance.

Receiving Water Limitation C(1) of the General Permit prohibits storm water discharges and authorized non-storm water discharges to surface or groundwater that adversely impact human health or the environment. Receiving Water Limitation C(2) of the General Permit also prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of any applicable water quality standards contained in a Statewide Water Quality Control Plan or the applicable Regional Board's Basin Plan. The General Permit does not authorize the application of any mixing zones for complying with Receiving Water Limitation C(2). As a result, compliance with this provision is measured at the Facility's discharge monitoring locations.

Filter Recycling Services has discharged and continues to discharge storm water with unacceptable levels of TSS, pH, O&G, COD, TOC, Cadmium, Lead, Iron, Ammonia, Magnesium and other pollutants in violation of the General Permit. Filter Recycling Services' sampling and analysis results reported to the Regional Board confirm discharges of specific pollutants and materials other than storm water in violation of the Permit provisions listed above. Self-monitoring reports under the Permit are deemed "conclusive evidence of an exceedance of a permit limitation." *Sierra Club v. Union Oil*, 813 F.2d 1480, 1493 (9th Cir. 1988).

The following discharges of pollutants from the Facility contained concentrations of pollutants in excess of numeric water quality standards established in the Basin Plan or the CTR, evidencing past and ongoing violations of General Permit Discharge Prohibitions A(1) and A(2), Effluent Limitation B(3) and Receiving Water Limitations C(1) and C(2).

Date	Parameter	Observed Concentration	Basin Plan or EPA Water Quality Standard/ EPA California Toxics Rule	Outfall (as identified by the Facility)
1/25/2013	Cadmium	0.024 mg/L	0.0017 mg/L	NORTH

1/25/2013	Cadmium	0.037 mg/L	0.0017 mg/L	SOUTH
12/12/2011	Cadmium	0.013 mg/L	0.0017 mg/L	SOUTH
2/8/2013	Lead	0.245 mg/L	0.0041 mg/L; 0.065 mg/L (CMC)	SOUTH
1/25/2013	Lead	0.969 mg/L	0.0041 mg/L; 0.065 mg/L (CMC)	SOUTH
1/25/2013	Lead	1.42 mg/L	0.0041 mg/L; 0.065 mg/L (CMC)	SOUTH
12/12/2011	Lead	0.28 mg/L	0.0041 mg/L; 0.065 mg/L (CMC)	SOUTH
9/30/2010	Lead	.086 mg/L	0.0041 mg/L; 0.065 mg/L (CMC)	NORTH
2/8/2013	pH	6.35 s.u.	6.5-8.5 s.u.	NORTH
1/25/2013	pH	6.45 s.u.	6.5-8.5 s.u.	SOUTH
10/5/2011	pH	6.35 s.u.	6.5-8.5 s.u.	NORTH
9/30/2010	pH	5.98 s.u.	6.5-8.5 s.u.	NORTH
9/30/2010	pH	5.11 s.u.	6.5-8.5 s.u.	SOUTH
10/14/2009	Narrative	Slight oil sheen	Oil & Grease. Basin Plan at 4-15	NORTH
10/14/2009	Narrative	Slight Oil sheen	Oil & Grease. Basin Plan at 4-15	SOUTH
11/16/2009	Narrative	Slight Oil Sheen	Oil & Grease. Basin Plan at 4-15	NORTH
11/16/2009	Narrative	Slight Oil Sheen	Oil & Grease. Basin Plan at 4-15	SOUTH
10/1/2010	Narrative	Slight Oil	Oil & Grease. Basin Plan at 4-15	NORTH
10/1/2010	Narrative	Slight Oil	Oil & Grease. Basin Plan at 4-15	SOUTH
10/5/2011	Narrative	Slight oil sheen, dirt	Oil & Grease. Basin Plan at 4-15. Solids. Basin Plan at 4-16.	NORTH

10/5/2011	Narrative	Slight oil sheen, dirt	Oil & Grease. Basin Plan at 4-15. Solids. Basin Plan at 4-16.	SOUTH
12/12/2011	Narrative	Oil sheen, dirt	Oil & Grease. Basin Plan at 4-15. Solids. Basin Plan at 4-16.	NORTH
12/12/2011	Narrative	Oil sheen, dirt	Oil & Grease. Basin Plan at 4-15. Solids. Basin Plan at 4-16.	SOUTH
2/15/2012	Narrative	Oil sheen	Oil & Grease. Basin Plan at 4-15	NORTH
2/15/2012	Narrative	Oil sheen	Oil & Grease. Basin Plan at 4-15	SOUTH
4/11/2012	Narrative	Oil sheen	Oil & Grease. Basin Plan at 4-15	NORTH
4/11/2012	Narrative	Oil sheen	Oil & Grease. Basin Plan at 4-15	SOUTH

The information in the above table reflects data gathered from Filter Recycling Services self-monitoring during the 2009-2010, 2010-2011, 2011-2012 and 2012-2013 wet seasons. CCAEJ alleges that during each of these wet seasons and continuing through today, Filter Recycling Services has discharged storm water contaminated with pollutants at levels or observations that exceed or violate one or more applicable water quality standards, including, but not limited to, each of the following:

- pH – 6.5-8.5 s.u, Basin Plan at 4-15;
- Cadmium – 0.0017 mg/L, *id.* at 4-14;
- Lead – 0.0041 mg/L, Basin Plan at 4-14;
- Lead – 0.065 mg/L (CMC), 40 C.F.R. § 131.38;
- Narrative standard for oil and grease, Basin Plan at 4-15.

The following discharges of pollutants from the Facility contained concentrations of pollutants in excess of numeric water quality benchmarks established by EPA in the MGSP (“**EPA Benchmarks**”), evidencing past and ongoing violations of General Permit Discharge Prohibitions A(1) and A(2), Effluent Limitation B(3) and Receiving Water Limitations C(1) and C(2).

Date	Parameter	Observed Concentration	EPA Benchmarks	Location (as identified by the Facility)
2/8/2013	TSS	1440 mg/L	100 mg/L	SOUTH
1/25/2013	TSS	1030 mg/L	100 mg/L	NORTH
1/25/2013	TSS	820 mg/L	100 mg/L	SOUTH
12/12/2011	TSS	289 mg/L	100 mg/L	NORTH
12/12/2011	TSS	1010 mg/L	100 mg/L	SOUTH
10/5/2011	TSS	109 mg/L	100 mg/L	SOUTH
12/20/2010	TSS	213 mg/L	100 mg/L	NORTH
10/5/2010	TSS	183 mg/L	100 mg/L	NORTH
9/30/2010	TSS	549 mg/L	100 mg/L	NORTH
9/30/2010	TSS	406 mg/L	100 mg/L	SOUTH
1/26/2010	TSS	175 mg/L	100 mg/L	SOUTH
1/26/2010	TSS	155 mg/L	100 mg/L	NORTH
1/25/2013	Oil & Grease	79.6 mg/L	15 mg/L	NORTH
12/12/2011	Oil & Grease	16.9 mg/L	15 mg/L	SOUTH
9/30/2010	Oil & Grease	18 mg/L	15 mg/L	SOUTH
9/30/2010	Oil & Grease	106 mg/L	15 mg/L	NORTH
10/11/2012	Oil & Grease	15.1 mg/L	15 mg/L	SOUTH
9/30/2010	pH	5.98 mg/L	6-9 s.u.	NORTH
9/30/2010	pH	5.11 mg/L	6-9 s.u.	SOUTH
2/8/2013	Iron	3.37 mg/L	1.0 mg/L	NORTH
2/8/2013	Iron	12.1 mg/L	1.0 mg/L	SOUTH
1/25/2013	Iron	265 mg/L	1.0 mg/L	NORTH
1/25/2013	Iron	515 mg/L	1.0 mg/L	SOUTH
1/25/2013	Lead	0.969 mg/L	0.262 mg/L	NORTH
1/25/2013	Lead	1.42 mg/L	0.262 mg/L	SOUTH
12/12/2011	Lead	0.28 mg/L	0.262 mg/L	SOUTH
2/8/2013	Chemical Oxygen Demand	457 mg/L	120 mg/L	NORTH
2/8/2013	Chemical Oxygen Demand	1090 mg/L	120 mg/L	SOUTH
1/25/2013	Chemical Oxygen Demand	908 mg/L	120 mg/L	NORTH
1/25/2013	Chemical Oxygen Demand	773 mg/L	120 mg/L	SOUTH
12/12/2011	Chemical Oxygen	2020 mg/L	120 mg/L	NORTH

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	Demand			
12/12/2011	Chemical Oxygen Demand	3330 mg/L	120 mg/L	SOUTH
10/5/2011	Chemical Oxygen Demand	1000 mg/L	120 mg/L	NORTH
10/5/2011	Chemical Oxygen Demand	1190 mg/L	120 mg/L	SOUTH
9/30/2010	Chemical Oxygen Demand	380 mg/L	120 mg/L	NORTH
12/20/2010	Chemical Oxygen Demand	325 mg/L	120 mg/L	SOUTH
10/5/2010	Chemical Oxygen Demand	995 mg/L	120 mg/L	NORTH
10/5/2010	Chemical Oxygen Demand	152 mg/L	120 mg/L	SOUTH
9/30/2010	Chemical Oxygen Demand	1430 mg/L	120 mg/L	NORTH
9/30/2010	Chemical Oxygen Demand	1060 mg/L	120 mg/L	SOUTH
1/26/2010	Chemical Oxygen Demand	288 mg/L	120 mg/L	SOUTH
1/26/2010	Chemical Oxygen Demand	179 mg/L	120 mg/L	NORTH
12/12/2011	Total Organic Carbon	200 mg/L	110 mg/L	NORTH
12/12/2011	Total Organic Carbon	530 mg/L	110 mg/L	SOUTH
10/5/2011	Total Organic Carbon	234 mg/L	110 mg/L	NORTH
10/5/2011	Total Organic Carbon	318 mg/L	110 mg/L	SOUTH
10/5/2010	Total Organic Carbon	330 mg/L	110 mg/L	NORTH
9/30/2010	Total Organic Carbon	220 mg/L	110 mg/L	NORTH
9/30/2010	Total Organic Carbon	175 mg/L	110 mg/L	SOUTH
2/8/2013	Magnesium	1.42 mg/L	0.0636 mg/L	NORTH
2/8/2013	Magnesium	6.21 mg/L	0.0636 mg/L	SOUTH
1/25/2013	Magnesium	63 mg/L	0.0636 mg/L	NORTH
1/25/2013	Magnesium	121 mg/L	0.0636 mg/L	SOUTH
12/12/2011	Magnesium	7.25 mg/L	0.0636 mg/L	NORTH
12/12/2011	Magnesium	34.7 mg/L	0.0636 mg/L	SOUTH
10/5/2011	Magnesium	17 mg/L	0.0636 mg/L	NORTH
10/5/2011	Magnesium	11.1 mg/L	0.0636 mg/L	SOUTH

12/20/2010	Magnesium	3.6 mg/L	0.0636 mg/L	NORTH
12/20/2010	Magnesium	3.79 mg/L	0.0636 mg/L	SOUTH
10/5/2010	Magnesium	29.7 mg/L	0.0636 mg/L	NORTH
10/5/2010	Magnesium	2.75 mg/L	0.0636 mg/L	SOUTH
9/30/2010	Magnesium	8.26 mg/L	0.0636 mg/L	NORTH
9/30/2010	Magnesium	4 mg/L	0.0636 mg/L	SOUTH
1/26/2010	Magnesium	5.98 mg/L	0.0636 mg/L	SOUTH
1/26/2010	Magnesium	1.16 mg/L	0.0636 mg/L	NORTH
10/5/2010	Ammonia	7.47 mg/L	2.14 mg/L	NORTH
10/5/2010	Ammonia	2.76 mg/L	2.14 mg/L	SOUTH
9/30/2010	Ammonia	9.13 mg/L	2.14 mg/L	NORTH
9/30/2010	Ammonia	3.86 mg/L	2.14 mg/L	SOUTH

The information in the above table reflects data gathered from Filter Recycling Services self-monitoring during the 2009-2010, 2010-2011, 2011-2012 and 2012-2013 wet seasons. CCAEJ alleges that during each of those rainy seasons and continuing through today, Filter Recycling Services has discharged storm water contaminated with pollutants that exceed one or more applicable EPA Benchmarks, including, but not limited to, each of the following:

- Total Suspended Solids – 100 mg/L;
- Oil & Grease – 15 mg/L;
- pH – 6-9 s.u.;
- Iron – 1.0 mg/L;
- Lead – 0.262 mg/L;
- Chemical Oxygen Demand – 120 mg/L;
- Total Organic Carbon – 110 mg/L;
- Ammonia – 2.14 mg/L; and
- Magnesium – 0.0636 mg/L.

CCAIEJ's investigation, including its review of Filter Recycling Services analytical results documenting pollutant levels in the Facility's storm water discharges well in excess of applicable water quality standards and the EPA's benchmark values, indicate that Filter Recycling Services has not implemented BAT and BCT at the facility for its discharges of TSS, pH, O&G, COD, TOC, Cadmium, Lead, Iron, Ammonia, Magnesium and other pollutants in

violation of Effluent Limitation B(3) of the General Permit. Filter Recycling Services was required to have implemented BAT and BCT by no later than October 1, 1992, or since the date the Facility opened. Thus, Filter Recycling Services is discharging polluted storm water associated with its industrial operations without having implemented BAT and BCT.

In addition, the numbers listed in the table above indicate that the Facility is discharging polluted storm water in violation of Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the General Permit. CCAEJ alleges that such violations also have occurred and will occur on other rain dates, including every significant rain event that has occurred since at least May 22, 2009 and that will occur at the Facility subsequent to the date of this Notice of Violation and Intent to File Suit. Attachment A, attached hereto, sets forth each of the specific rain dates on which CCAEJ alleges that Filter Recycling Services has discharged storm water containing impermissible levels of TSS, pH, O&G, COD, TOC, Cadmium, Lead, Iron, Ammonia, Magnesium and other pollutants in violation of Effluent Limitation B(3), Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the General Permit.⁵

These unlawful discharges from the Facility are ongoing. Each discharge of storm water containing any of these pollutants constitutes a separate violation of the General Permit and the Act. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the CWA, Filter Recycling Services is subject to penalties for violations of the General Permit and the Act since May 22, 2009.

b. Failure To Develop And Implement An Adequate Monitoring And Reporting Program.

Section B of the General Permit describes the monitoring requirements for storm water and non-storm water discharges. Facilities are required to make monthly visual observations of storm water discharges (Section B(4)) and quarterly visual observations of both unauthorized and authorized non-storm water discharges (Section B(3)). Section B(5) requires facility operators to sample and analyze at least two storm water discharges from all storm water discharge locations during each wet season. Section B(7) requires that the visual observations and samples must represent the “quality and quantity of the facility’s storm water discharges from the storm event.”

The above-referenced data was obtained from the Facility’s monitoring program as reported in its Annual Reports submitted to the Regional Board. This data is evidence that the Facility has violated various Discharge Prohibitions, Receiving Water Limitations, and Effluent Limitations in the General Permit. To the extent the storm water data collected by Filter

⁵ The rain dates are all the days when an average of 0.1 or more rain fell as measured by a weather station located in Ontario ten miles away. See <http://www.ipm.ucdavis.edu/WEATHER/SITES/>.

Recycling Services is not representative of the quality of the Facility's various storm water discharges and that the Facility failed to monitor all qualifying storm water discharges, CCAEJ alleges that the Facility's monitoring program violates Sections B(3), (4), (5) and (7) of the General Permit.

CCAIEJ also alleges on information and belief that Filter Recycling Services' 2009-2010 Annual Report indicated there was only one qualifying rain event to sample in compliance with the Permit when in fact that was not the case.

CCAIEJ also alleges on information and belief that Filter Recycling Services failed to report visual observations in its Annual Reports for March 2010, January 2012 and March 2012, by claiming that there were no qualifying rain events when in fact there were numerous such events during these periods.

The above violations are ongoing. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Filter Recycling Services is subject to penalties for violations of the General Permit and the Act's monitoring and sampling requirements since May 22, 2009.

c. Failure To Analyze For Mandatory Parameters.

With some limited adjustments, facilities covered by the General Permit must sample two storm events per season from each of their storm water discharge locations. General Permit Section B(5)(a). Collected samples must be analyzed for Total Suspended Solids, pH, Specific Conductance and either Total Organic Carbon or O&G. *Id.* at Section B(5)(c)(i). Facilities must also analyze their storm water samples for "[t]oxic chemicals and other pollutants that are likely to be present in storm water discharges in significant quantities." *Id.* at Section B(5)(c)(ii).

As evidenced by the Facility's sampling results from the 2012-2013 wet season, CCAIEJ alleges that iron is a pollutant likely to be present in the Facility's storm water discharges in significant quantities. CCAIEJ's investigation of the Filter Recycling Services monitoring data indicates that the Facility failed to analyze its storm water discharges for iron during all storm water samples taken during the 2009-2010, 2010-2011 and 2011-2012 wet seasons. This results in at least 12 violations of the General Permit.

Each failure to analyze for mandatory parameters constitutes a separate violation of the General Permit and the Act. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the CWA, Cal Micro is subject to penalties for violations of the General Permit and the Act since May 22, 2009.

d. Failure To Prepare, Implement, Review and Update An Adequate Storm Water Pollution Prevention Plan.

Section A and Provision E(2) of the General Industrial Storm Water Permit require dischargers of storm water associated with industrial activity to develop, implement, and update an adequate storm water pollution prevention plan (hereinafter "**SWPPP**") no later than October 1, 1992. Section A(1) and Provision E(2) requires dischargers who submitted an NOI pursuant to the General Permit to continue following their existing SWPPP and implement any necessary revisions to their SWPPP in a timely manner, but in any case, no later than August 1, 1997.

The SWPPP must, among other requirements, identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm and non-storm water discharges from the facility and identify and implement site-specific best management practices (hereinafter "**BMPs**") to reduce or prevent pollutants associated with industrial activities in storm water and authorized non-storm water discharges (General Permit, Section A(2)). The SWPPP must include BMPs that achieve BAT and BCT (Effluent Limitation B(3)). The SWPPP must include: a description of individuals and their responsibilities for developing and implementing the SWPPP (General Permit, Section A(3)); a site map showing the facility boundaries, storm water drainage areas with flow pattern and nearby water bodies, the location of the storm water collection, conveyance and discharge system, structural control measures, impervious areas, areas of actual and potential pollutant contact, and areas of industrial activity (General Permit, Section A(4)); a list of significant materials handled and stored at the site (General Permit, Section A(5)); a description of potential pollutant sources including industrial processes, material handling and storage areas, dust and particulate generating activities, a description of significant spills and leaks, a list of all non-storm water discharges and their sources, and a description of locations where soil erosion may occur (General Permit, Section A(6)).

The SWPPP also must include an assessment of potential pollutant sources at the Facility and a description of the BMPs to be implemented at the Facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges, including structural BMPs where non-structural BMPs are not effective (General Permit, Section A(7), (8)). The SWPPP must be evaluated to ensure effectiveness and must be revised where necessary (General Permit, Section A(9),(10)). The SWPPP must also include a certification statement and signature (General Permit, Section C(10)).

CCA EJ's investigation of the conditions at the Facility as well as Filter Recycling Services' Annual Reports indicates that Filter Recycling Services has been operating with an inadequately developed SWPPP in violation of the requirements set forth above. Filter Recycling Services has failed to evaluate the effectiveness of its BMPs and to revise its SWPPP as necessary. Filter Recycling Services has been in continuous violation of Section A and Provision E(2) of the General Permit every day since May 22, 2009, at the very latest, and will continue to be in violation every day that Filter Recycling Services fails to prepare, implement,

review, and update an effective SWPPP. Filter Recycling Services is subject to penalties for violations of the Order and the Act occurring since May 22, 2009.

e. Failure To File True And Correct Annual Reports.

Section B(14) of the General Industrial Storm Water Permit requires dischargers to submit an Annual Report by July 1st of each year to the executive officer of the relevant Regional Board. The Annual Report must be signed and certified by an appropriate corporate officer. General Permit, Sections B(14), C(9), C(10). Section A(9)(d) of the General Industrial Storm Water Permit requires the discharger to include in their annual report an evaluation of their storm water controls, including certifying compliance with the General Industrial Storm Water Permit. *See also* General Permit, Sections C(9) and (10) and B(14).

During the 2009-2010, 2010-2011, 2011-2012 and 2012-2013 wet seasons, Filter Recycling Services inaccurately certified in the Annual Report that the facility was in compliance with the General Permit. Consequently, Filter Recycling Services has violated Sections A(9)(d), B(14), C(9) and C(10) of the General Industrial Storm Water Permit every time Filter Recycling Services failed to submit a complete or correct report and every time Filter Recycling Services or its agents failed to comply with the Act. Filter Recycling Services is subject to penalties for violations of Section (C) of the General Industrial Storm Water Permit and the Act occurring since at least July 5, 2010.

III. Persons Responsible For the Violations.

CCA EJ puts Filter Recycling Services, Jon L. Bennett and Wade Riddering on notice that they are the persons responsible for the violations described above. If additional persons are subsequently identified as also being responsible for the violations set forth above, CCA EJ puts Filter Recycling Services, Jon L. Bennett and Wade Riddering on notice that it intends to include those persons in this action.

IV. Name And Address Of Noticing Parties.

The name, address and telephone number of CCA EJ is as follows:

Penny Newman
Executive Director
Center for Community Action and Environmental Justice
P.O. Box 33124
Jurupa Valley, CA 92519
Tel. (951) 360-8451

V. Counsel.

CCAIEJ has retained counsel to represent it in this matter. Please direct all communications to:

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VI. Penalties.

Pursuant to Section 309(d) of the Act (33 U.S.C. § 1319(d)) and the Adjustment of Civil Monetary Penalties for Inflation (40 C.F.R. § 19.4) each separate violation of the Act subjects Filter Recycling Services to a penalty of up to \$37,500 per day per violation. In addition to civil penalties, CCAIEJ will seek injunctive relief preventing further violations of the Act pursuant to Sections 505(a) and (d) (33 U.S.C. § 1365(a) and (d)) and such other relief as permitted by law. Lastly, Section 505(d) of the Act (33 U.S.C. § 1365(d)), permits prevailing parties to recover costs and fees, including attorneys' fees.

CCAIEJ believes this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. CCAIEJ intends to file a citizen suit under Section 505(a) of the Act against Filter Recycling Services and its agents for the above-referenced violations upon the expiration of the 60-day notice period. However, during the 60-day notice period, CCAIEJ would be willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions in the absence of litigation, CCAIEJ suggests that you initiate those discussions within the next 20 days so that they may be completed before the end of the 60-day notice period. CCAIEJ does not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,



Gideon Kracov
The Law Office of Gideon Kracov

Attorneys for Center for Community Action and
Environmental Justice

SERVICE LIST

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Thomas Howard, Executive Director
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Citizen Suit Coordinator
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*Served via Certified Mail, Return Receipt Requested.

ATTACHMENT A
Rain Dates, Filter Recycling Services, Bloomington, California

11/30/2009	12/6/2009	12/7/2009
12/16/2009	12/29/2009	1/3/2010
1/4/2010	1/5/2010	1/7/2010
1/9/2010	1/10/2010	2/7/2010
2/8/2010	2/12/2010	2/14/2010
2/17/2010	2/19/2010	2/20/2010
2/21/2010	2/22/2010	2/23/2010
2/25/2010	2/27/2010	2/28/2010
3/1/2010	3/2/2010	3/5/2010
3/15/2010	3/17/2010	11/30/2010
12/6/2010	12/7/2010	12/16/2010
1/3/2011	1/4/2011	1/5/2011
1/7/2011	1/9/2011	1/10/2011
2/7/2011	2/8/2011	2/12/2011
2/14/2011	2/17/2011	2/19/2011
2/20/2011	2/21/2011	2/22/2011
2/23/2011	2/25/2011	2/27/2011
2/28/2011	3/1/2011	3/2/2011
3/5/2011	3/15/2011	3/17/2011
11/30/2011	12/6/2011	12/7/2011
12/16/2011	12/29/2011	1/3/2012
1/4/2012	1/5/2012	1/7/2012
1/9/2012	1/10/2012	2/7/2012

2/8/2012	2/12/2012	2/14/2012
2/17/2012	2/19/2012	2/20/2012
2/21/2012	2/22/2012	2/23/2012
2/25/2012	2/27/2012	2/28/2012
2/29/2012	3/1/2012	3/2/2012
3/5/2012	3/15/2012	3/17/2012
11/30/2012	12/6/2012	12/7/2012
12/16/2012	12/29/2012	1/3/2013
1/4/2013	1/5/2013	1/7/2013
1/9/2013	1/10/2013	2/7/2013
2/8/2013	2/12/2013	2/14/2013
2/17/2013	2/19/2013	2/20/2013
2/21/2013	2/22/2013	2/23/2013
2/25/2013	2/27/2013	2/28/2013
3/1/2013	3/2/2013	3/5/2013
3/15/2013	3/17/2013	11/30/2013
12/6/2103	12/7/2013	12/16/2013
1/3/2014	1/4/2014	1/5/2014
1/7/2014	1/9/2014	1/10/2014
2/7/2014	2/8/2014	2/12/2014
2/12/2014	2/17/2014	2/19/2014
2/20/2014	2/21/2014	2/22/2014
2/23/2014	2/25/2014	2/27/2014
2/28/2014	3/1/2014	3/2/2014
3/5/2014		